



SC CDBG 2009 Technical Workshop

Procurement & Contracting



South Carolina
Commerce

Welcome & Introductions

- ❖ Bonnie Ammons, Dept of Commerce
 - Commerce staff introductions
- ❖ ICF Trainers
 - Kelly Price
 - Phil Jones
- ❖ Attendee introductions
 - Organization (local gov't, COG, other)?
 - Experience with procurement?

Session Agenda

- ❖ Overview of procurement requirements & methods of procurement
- ❖ Roles & relationships in the process
- ❖ Step-by-step procurement
- ❖ Typical procurement/contract problems
- ❖ Review of contractual terms & conditions & requirements for contract approval
- ❖ Managing change orders
- ❖ Ensuring compliance

We will discuss typical issues as we go along



Procurement Workshop

Overview of Procurement Requirements & Methods of Procurement



Procurement Basics

- ❖ Goods/services purchased with CDBG funds must comply with:
 - Federal requirements at 24 CFR Part 85.36 (the Common Rule)
 - State CDBG procurement requirements and other state laws (SC Ethics, Government Accountability & Campaign Reform Act of 1991)
 - Other requirements like Section 3, Equal Opportunity, etc.



Procurement Requirements

- ❖ If Federal, state & local procurement rules differ, you must comply with the most stringent requirements

Procurement Exclusions

- ❖ If using local funding for front-end costs, Federal procurement requirements do not apply to these purchases
 - Ex: Hiring an architect to design the project plan prior to award of CDBG funds
- ❖ Private sector entities not subject to Common Rule provisions
 - Ex: A CDBG-assisted business buys equipment

Written Procurement Procedures

- ❖ Grantees must adopt written procurement procedures
 - Designed to achieve maximum open & free competition
 - Must include standards of conduct (conflict of interest)
 - Also must include how requirements like Section 3, MBE/WBE will be met

General Procurement Guidelines (24 CFR 85.36)

- ❖ Open and free competition
- ❖ Clear scope of work
- ❖ Cost and price analysis for every procurement or modification
- ❖ Fixed price or max not to exceed
- ❖ Review procurements to avoid purchasing any unnecessary goods and services with federal funds

General Procurement Guidelines (24 CFR 85.36)

- ❖ Award to responsive and responsible bidders
- ❖ Protest procedures
- ❖ Records of procurement – method, contract type, selection/rejection, basis of price

General Procurement Guidelines (24 CFR 85.36)

- ❖ May not have a local provision to award based on geographical preferences to local contractors if not the low bidder OR if not qualified
 - Section 3 requirements do not override this requirement (more later)

Conflict of Interest

- ❖ State laws apply to procurement of supplies, equipment, construction and services by recipients and subrecipients
- ❖ CDBG rules apply to cases not governed by State Law
- ❖ Persons covered = Employees, agents, consultants, officers or elected/ appointed officials of state, local govt and/or recipient and subrecipient

Conflict of Interest (cont.)

- ❖ Prohibited conflicts:
 - Persons with CDBG responsibilities, decision-making power or information may NOT:
 - Obtain a financial interest or benefit from CDBG activity
 - Have any interest in contract or subcontract
 - Applies to family members & business ties
 - Applies during tenure & 1 year after
- ❖ If any doubt recuse self & disclose conflict
- ❖ Exceptions may be allowed by GA for LMI persons- may require legal opinion on state law

Section 102 Disclosure

- ❖ Section 102 of HUD Reform Act of 1989
- ❖ Requires certain disclosures if HUD assistance will exceed \$200,000 (FFY)
 - Other government assistance
 - Interested parties
 - Sources & uses of funds
- ❖ Use Section 102 Disclosure Report
- ❖ Update this report & submit to GA for contracts or modifications

Section 3

- ❖ Employment, job training and contracts created through CDBG projects should be available to low and very low income persons
- ❖ Applies to housing rehab, construction & other construction projects at thresholds of:
 - \$200,000 CDBG grant AND
 - \$100,000 contracts/subcontracts
- ❖ Once triggered, applies to entire project or activity

Section 3

- ❖ Must make efforts to provide contracts/subcontracts to Section 3 businesses
- ❖ A Section 3 business is defined as:
 - 51% or more owned by Section 3 residents;
 - 30% of permanent employees are or were Section 3 residents; or
 - Commitment to subcontract in excess of 25% of dollar award to Section 3 business(es)

Remember can't have preference based on geography (location of business) but can have preference for Section 3 businesses/subcontracting

Section 3

- ❖ Contractors/subs must make good faith effort to promote training & hiring of Section 3 residents:
 - Public housing residents OR other low/very low income residents of service area
 - Service area does not exceed boundaries of local government
 - May also include other LMI residents in non-metro county

Section 3

- ❖ Grantee is responsible for compliance in own operations and for contractors & subs
- ❖ Do outreach to contractors to inform and suggest approaches
 - Possible outreach approaches: distributing flyers, posting signs, placing ads, and contacting local organizations incl. employment agencies
- ❖ Information Sheet for contractors in Implementation Manual to include in bid packages

Equal Opportunity & M/WBE

- ❖ Grantees must also provide equal opportunity in hiring & contracting
- ❖ Grantees must take affirmative steps to assure that small & minority/women's business enterprises have opportunity to provide goods & services
 - Have M/WBEs on solicitation lists
 - Use resources such as SBA & Governor's Office of Minority Affairs

Methods of Procurement

- ❖ Select one of four procurement methods based on product/service to be procured
 - Small purchase procedures
 - Competitive sealed proposals
 - Requests for qualifications (RFQs)
 - Requests for proposals (RFPs)
 - Competitive sealed bids
 - Non-competitive negotiations

Small Purchase Procedures

- ❖ For purchases < \$1,500 (very small):
 - Make efforts to obtain lowest and best price
 - Written memo to file to document efforts
- ❖ Purchases < \$100,000 (small):
 - Typically used for purchase of goods or services
 - Not allowed for construction or A/E services
 - OK for other professional services

Small Purchase

- ❖ Must have written list of materials and specifications
- ❖ Obtain written price quotations by line item from at least 3 suppliers
- ❖ Award to lowest quote that meets specs
- ❖ Small purchase contracts >\$25K & professional services >\$5K require GA approval in advance

Competitive Proposals

- ❖ Used for services where selection based on factors in addition to cost like A/E or consulting services
- ❖ Involves soliciting RFQ and/or RFP
- ❖ Award based on qualifications related to selection criteria in the RFQ/RFP & may not necessarily be lowest bidder
- ❖ Only fixed-price contracts or max not to exceed allowed

Request for Qualifications (RFQ)

- ❖ Used for complicated A/E services
 - Selection generally based on skills/experience
- ❖ Also used in two stage process
 - Narrows down field OR creates pool of qualified firms
 - RFP usually still required in order to select winner

RFQ

- ❖ Often, RFQ selection criteria use benchmarks
 - All firms meeting the benchmarks are typically deemed qualified
 - Ex: Must have 5 years experience in engineering similar infrastructure systems
- ❖ Criteria may include:
 - Years of experience
 - Areas of expertise
 - Capacity to carry out services
 - References
- ❖ Committee evaluates and selects highest ranking firm

RFP

- ❖ Request for Proposals (RFP) = Select winning proposer
 - Includes weighted selection criteria to determine winner
 - Requests both technical & rate information
 - Can be done with or without RFQ
 - Architectural services can be procured using RFP as long as cost not an initial factor



RFP

❖ RFP Components

- Threshold criteria (Ex: must be a licensed architect)
- Selection criteria -- Assign points
 - Expertise/Education
 - Years of experience
 - Past performance
 - Some criteria may be weighted more heavily
- Cost -- Ask for fixed price cost information
- References
- Some info may have been collected if RFQ used

❖ Committee evaluates and selects highest scoring proposal

Competitive Sealed Bids

- ❖ **Use for construction work or goods more than \$100,000**
- ❖ **Requirements:**
 - Bid documents must match scope in CDBG application (locality must pay for additional items or amendment may be required)
 - Award contract to the responsible bidder that is lowest in price
 - Use firm-fixed price contracts based on unit bids



Design-Build

- ❖ Design/Build is approach where single entity provides design, engineering & construction services
 - Used primarily for unique/complex projects
- ❖ Must obtain advance GA approval
- ❖ Requirements:
 - Clear scope of work and tech specs
 - Firm fixed price contract with quantities and unit costs
 - Evaluation of contractor past performance
 - Independent qualified inspector used

Non-Competitive Negotiation

- ❖ Only allowed under certain circumstances!
- ❖ Requirements:
 - Receive advance GA authorization to use
 - Only allowed when:
 - Only available from one source OR
 - Emergency OR
 - Followed procurement rules and direct solicitation but only received one bid
 - Conduct negotiations regarding scope and price

Non-Competitive Negotiation

❖ Must submit:

- Cost proposal with unit pricing
- Documentation of service agreement or other justification for sole source
- C-1 Contract Transmittal Form and documentation





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Roles & Relationships and Impact on Procurement



Who works for whom?

- ❖ Local Government Grantee
- ❖ COG
- ❖ Engineer/Architect
- ❖ Developer
- ❖ Contractor & Subs
- ❖ Water & Sewer Authority
- ❖ Others?



Roles

- ❖ Local government gets grant
- ❖ Grant administrator works for local government to ensure compliance with CDBG
- ❖ Other parties involved, for example:
 - Subrecipients may procure contracts
 - Engineer works for local government or subrecipient & manages the construction process but may not be familiar with CDBG & related requirements
 - Grant administrator & engineer both work for ULG but should also communicate with each other



Responsibilities

- ❖ Fundamental responsibility lies with grantee local government
- ❖ Grantee responsible for compliance regardless of whether the A/E, grant administrator or subrecipient assists with the process

Procurement & Contracting Roles & Tasks

- ❖ Engineer develops bid and contract documents
- ❖ Grant administrator must ensure engineer has all information about the approved project scope, budget, and CDBG procurement and contracting requirements
- ❖ Grant administrator should review all documents prior to bidding to ensure compliance

Procurement & Contracting Roles & Tasks

- ❖ Grant administrator should also review bid & contract docs before submitting to GA for review
- ❖ Engineer determines technical compliance with contract, reasonableness of costs & approves payments
- ❖ Similar communication & review process in the event of change orders or other problems that arise with the project
- ❖ ULG has final approval of all contracts & changes

Communication is Critical

- ❖ Establish how information will flow from one partner to another & who needs to be “in the loop”
- ❖ Set up regular time to meet or talk each week about progress & issues
- ❖ Everyone has a role to play & value to add to the team
 - One party should not carry out procurement independently without involvement of others



Procurement Workshop

Procurement Step-by-Step



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Steps for All Procurements

- ❖ All bid solicitations & documents should be reviewed by local administrator & must contain required elements
- ❖ Bids are taken and the procurement method and contract docs are submitted for GA review prior to signing contract
- ❖ Locality issues Notice of Intent to Award subject to GA review

Before Bidding

- ❖ All solicitations & documents must include:
 - CDBG as funding source
 - Minimum periods for solicitation
 - 30 days for construction
 - 15 days for RFP/RFQ
 - Provisions for non-acceptance
 - 10-day protest period & procedures
 - Prices good for minimum of 60 days
 - IF applicable, labor standards clauses & wage decision



Before Bidding cont.

- ❖ All solicitations & documents must include:
 - Consistency on dates & responsible parties in all docs
 - No ineligible items or contingency lines
 - Procedures for bidding errors
 - Unit prices & link to change orders

RFQ Process

- ❖ Usually does not stand alone as procurement process – used in conjunction with RFP
- ❖ Only exception to this is that GA allows use of RFQ only (w/ no RFP) for complicated A/E services
- ❖ Review committee required to evaluate RFQ responses
 - Must have an uneven number of members to avoid ties

The RFQ Process

- ❖ Step 1: Establish contract procurement file
- ❖ Step 2: Determine likely tasks to be performed & qualifications needed
- ❖ Step 3: Establish selection criteria
 - Develop based on skills needed to complete tasks

RFQ Selection Criteria

- ❖ Often, RFQ selection criteria use benchmarks
 - All firms meeting the benchmarks are typically deemed qualified
 - Example: Must have 5 years experience in engineering similar infrastructure systems
- ❖ Criteria may include:
 - Years of experience
 - Areas of expertise
 - Capacity
 - References
- ❖ Cost must be tied to proposed scope





RFQ Process

- ❖ Step 4: Review and Issue RFQ
 - Advertise & direct solicitation 15 days in advance
 - Must obtain at least 2 responses
- ❖ Step 5: Review submissions
 - Compare submissions to selection criteria & determine “qualified” firms
 - Could conduct interviews of top ranked firms
- ❖ Step 6: Inform selected firms & issue RFP to qualified firms (can be at a later date) OR if architectural, negotiate with winning bidder

The RFP Process

- ❖ Can be done with or without RFQ
- ❖ Step 1: Continue/develop procurement file
- ❖ Step 2: Develop detailed scope of work
 - Specific tasks
 - Timeline
- ❖ Step 3: Establish selection criteria
 - Develop based on scope
 - Assign points to various needed skills/expertise



RFP Selection Criteria

- ❖ Threshold criteria (OK or not OK)
 - Example: must be a licensed architect
- ❖ Selection criteria -- Assign points for needed background
 - Expertise/Education
 - Years of experience
 - Past performance
 - Cost (does not have to be main factor)
 - Some criteria may be weighted more heavily
 - Firm with highest score selected
- ❖ If not already done, get references





RFP Process

- ❖ Step 4: Issue RFP as required
 - Advertise & directly solicit at least 15 days in advance
 - Must have at least 2 proposals to show competition
 - Include selection criteria and relative weights in ad along with ID as a CDBG project
- ❖ Step 5: Committee reviews proposals (use an odd number of members)
 - Rate and rank using established written selection criteria
 - Include an analysis of cost
 - Cost need not be sole determining factor but should be a part of selection criteria



RFP Evaluation of Costs

- ❖ Cost proposal (except architectural) must have direct correlation to proposed scope of work
- ❖ Engineering costs may not exceed USDA limits as percentage of construction costs
- ❖ Fixed price or cost not to exceed
- ❖ Cost must be reasonable
 - Can be negotiated after selection of top rated proposal



RFP Scoring Issues

- ❖ Scores may not exceed maximum allowed in evaluation criteria
- ❖ Computation errors by individual scorers should be corrected in writing & if the error effects the selected firm, it may require re-soliciting the RFP



RFP Process

- ❖ Step 6: Prepare a contract for winning proposer
 - Formalize terms and scope
- ❖ Step 7: Inform losing proposers
 - Allow for appeals or protest process
- ❖ Step 8: Submit unexecuted copy of contract and procurement documents to GA for review

Competitive Sealed Bids (for construction projects)

- ❖ Initiated by publishing invitation for bids
 - Advertise for 30 days
 - Ad should indicate CDBG \$ & that federal requirements will apply
 - Also use direct solicitation
 - Shortened bid periods must have GA approval
- ❖ Bids must show quantity and cost of each line item
 - Misc.& contingency not allowed



Competitive Sealed Bids

- ❖ Publicly open bids
- ❖ No late bids accepted!
- ❖ At least 2 bids must be received
 - One can be a “no bid” response
- ❖ All bids must be tabulated & reviewed
 - Bid must be itemized
 - No lump sum or unspecified “contingency”



Competitive Sealed Bids

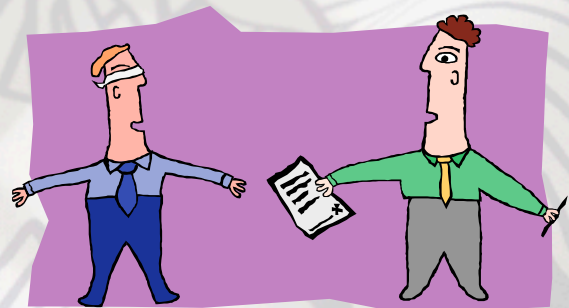
- ❖ Award contract to the responsible bidder that is lowest in price
- ❖ Use firm-fixed price contracts with:
 - Unit prices & quantities
 - Formal terms & scope
 - Signatures from all parties



Bids Over Budget

❖ Bids over budget 5% or less

- Determine in writing that time/circumstances will not permit delay of re-bidding
- Negotiate with lowest bidder
- Obtain written concurrence from contractor
- Changes in scope that are delete activities approved in the CDBG application require prior GA approval



Bids Over Budget (cont)

❖ Bids over budget more than 5%

- Determine in writing time/circumstances will not permit delay for re-bidding
- Notify all bidders/give reasonable opportunity for all to resubmit bids
- Award to lowest negotiated responsive and responsible bidder
- Significant change in scope to reduce cost, prior GA approval is required
- If bids significantly higher, or significant change in scope required, may have to re-bid



Bids Over Budget (cont)

- ❖ Submit documentation of bid negotiations
 - Written notice to bidders
 - Revised specs
 - Revised bids
 - Explanation of bidders that do not participate in the negotiations

Case Study # 1

Grantee develops a budget estimate for a sewer system upgrade.

Construction Budget: \$454,520

CDBG: \$349,700

Local: \$ 50,000

Additional Leveraging: \$ 54,820

Grantee solicits bids and the lowest responsible bid is \$501,200

What do you do now that bids exceed budget?



Case Study #1

Grantee Options:

1. Look for Additional Funding
 2. Negotiate with bidder (s)
 3. Re-bid construction
- ❖ Bid expiration is an important factor in determining how to proceed.

Case Study #1

Look for Additional Funding:

- ❖ Discuss any possibilities of additional investment from local government, other public sources (USDA, state agencies) and/or private entities (lenders, foundations)
- ❖ Additional funding would need to be immediately available
- ❖ Grantee must submit a written commitment with the contract for GA approval from the appropriate funding source

Case Study # 1

Negotiating vs. Rebidding

- ❖ Contact GA staff to discuss
- ❖ Consider how much the project is over bid
 - What line items caused the project to be over the budget and why?
- ❖ Can bid documents be revised to use an alternate approach or method?
- ❖ Can the scope of work be reduced without violating the competitive requirements of the procurement process?
- ❖ Can the scope of work be reduced without affecting the integrity of the project?
- ❖ Will change affect the timing of project completion?



Case Study #1

NEGOTIATING:

- ❖ For contracts 5% over the construction budget, each responsible bidder must be given an opportunity to negotiate.
- ❖ Document in writing any changes to the contract and the date for re submission of a bid

Case Study #1

RE-BIDDING:

- ❖ If substantially over budget, the project must be re-bid.
- ❖ If a substantial reduction in scope is required, the project must be re-bid.
- ❖ To allow more competition and better prices.
 - There may be other potential contractors that did not participate the first time.
 - In addition to publishing the ad, solicit bidders directly
 - Allows use of deductive alternates



Proactive Measure

- ❖ Use additive or deductive alternates in the bid package to allow for bids that are higher or lower than expected



Case Study # 2

Bids have been taken and ineligible items were inadvertently included in the specifications.

How do you handle the bids?



Case Study # 2

A contract award for the full amount and then a concurrent change order to reduce the scope of work for the ineligible items is **not** appropriate.



Case Study #2

- ❖ Other funds must pay for ineligible costs. Submit a letter of commitment with the contract

OR

- ❖ Re-bid the project

OR

- ❖ If additional funds are not available, remove the ineligible items from the contract

Case Study # 2

- ❖ If you choose option of removing ineligible items from the bid:
 - Cost is less than 5% of bid
 - Negotiate with low bidder and get concurrence in writing from contractor
 - Cost is more than 5% of bid
 - Give all bidders the opportunity to resubmit their bid without the ineligible items



Case Study # 2

- ❖ Submit documentation to GA
 - Written notice to all bidders, revised specs, copies of revised bids, explanation of bidders that don't resubmit bids
 - Revise contract agreement and make sure the contract amount reflects the lowest revised bid

Proactive Measure

- ❖ Grant administrator should review the bid documents in advance and make sure that the items (areas, quantities, etc) being bid are consistent with those approved in the CDBG application

How to Handle Typical Procurement/Contract Issues:

Errors in the bids

What should you do?



Errors on Bids

- ❖ Prior to bid opening, an error on a bid may be corrected in writing by the bidder
- ❖ After bid opening, the evaluator may only note *computation* errors not the unit prices
- ❖ The total fixed price cannot be changed

Proactive Measure

- ❖ Bid package should address how errors will be handled
 - Discrepancies between multiplication of units of work and unit prices should be resolved in favor of the unit price
 - Discrepancies between sum of any column of figures and the corrected sum will be resolved in favor of the correct sum
 - Discrepancies between words and figures should be resolved in favor of words



How to Handle Typical Procurement/Contract Issues:

Low bidder is determined not
responsible?

What should you do?



Low Bidder is Determined not Responsible

❖ Examples:

- License does not meet requirements
- References indicate poor performer
- Bid is not responsive

❖ Submit to GA for review:

- Written justification
- Recommendation for award
- Legal opinion that action is consistent with local policies and bid documents



Proactive Measure

- ❖ Include a provision in bid specifications that bidders will be required to demonstrate qualifications to perform the work, upon request.
 - Provide a description of qualifications and timeframe for submittal.

How to Handle Typical Procurement/Contract Issues:

Bid Protests

What should you do?



Protests

- ❖ Must be handled at local level
- ❖ Must have local procedures, including responsible personnel
- ❖ Bid documents must include info
- ❖ Document all actions and submit to GA with contract



Case Study #3

A grantee will procure materials for use by volunteers in an exterior housing rehabilitation project using both CDBG and non-CDBG funds.

How do you procure the materials?



Case Study #3

- ❖ Use Small Purchase procedures
 - Goods and services totaling no more than \$100,000
 - Itemize the materials to be purchased and any appropriate specifications
 - Obtain 3 written quotes
- ❖ OK to obtain materials from different suppliers (i.e., lumber, plumbing, roof)
 - Must still follow small purchase procedures

Case Study #3

- ❖ Obtain a firm “hold date” on the quotes and ensure materials are ordered within the deadline to avoid potential price increases and potential procurement issues.
 - If the deadline passes for holding prices, a grantee must re-document low bid prior to ordering materials
 - If actual quantities needed exceed the estimated quantities procured, grantee must ensure the selected vendor’s price is still fair and reasonable





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Section 4: Contracts – Terms & Conditions and Approval Process



Contracting

- ❖ Sample contractual agreements are typically included in the bid package
- ❖ This is the document that will hold the contractor accountable for performance
- ❖ Contract should reference the bid proposal
- ❖ Standard agreements – USDA, AIA
- ❖ Contracts should not be pre-dated in the bid package
- ❖ Only issue a Notice of Intent to Award subject to GA review

General Contract Requirements

- ❖ CDBG Contract Special Provisions
- ❖ Scope of work
- ❖ Firm fixed contract amount
 - Identifying unit price bids
 - Documents should always include a “not to exceed” clause
 - Cost plus percentage of cost contracts may not be used
- ❖ Time frame for work
- ❖ Total contract amount
- ❖ Additional funding commitments, if needed



Special Provisions

- ❖ Davis Bacon wage rate
- ❖ Labor Standards provisions
- ❖ Equal Opportunity
- ❖ Section 3 forms
- ❖ SC Illegal Immigration Act – contractor certification
- ❖ Debarment certification



Specifications & General Provisions

- ❖ Technical Specifications & drawings
- ❖ General Provisions
 - Payment instructions
 - Liquidated damages
 - Work conditions

What other types of provisions should be included?

Bonding

- ❖ Winning construction contractors must submit performance and payment bonds
 - Required for contracts greater than \$100,000
 - Amount for each equal to contract price
 - Within period under bid docs or 10 days from contract presentation

Bonding

- ❖ Performance bond:
 - From a surety company on Treasury list
 - Financial strength at least 5 times contract
- ❖ Payment bond:
 - From a surety company on Treasury list or Best's Key Rating Guide
 - Financial strength at least 5 times contract

GA Approval of Contracts

- ❖ GA must approve contracts prior to execution:
 - Professional services contracts \$5,000 or more
 - All small purchase & construction contracts \$25,000 or more
- ❖ Contract Transmittal Form (C-1)
 - Revised & simplified (see handouts)
 - Certifies that all applicable provisions are in contract
 - Signed & dated by procurement official
- ❖ Submit to GA within 10 days of bid opening

C-1 Form (cont.)

- ❖ Includes information about the contractor like Fed. ID # , ethnicity of contractor, Sect. 3, WBE/MBE
- ❖ Description of method of procurement
- ❖ Proof of advertising/solicitation of qualifications, proposals or bids
- ❖ Bid tabulation & itemized unit pricing/selection criteria
- ❖ Low bidder's itemized proposal
- ❖ Cost analysis and recommendation to award contract by A/E
- ❖ All funding sources and amounts

C-1 Form (cont.)

- ❖ Technical Specifications, Wage Determinations, General Provisions and CDBG Special Provisions
- ❖ Map of improvements, layout, etc.
- ❖ Debarment Certification (for contracts over \$100,000 only)
- ❖ Updated Section 102 Disclosure Form
- ❖ A/E Certification of Accessibility (if applicable)



C-1 Form (cont.)

- ❖ Incl. Section 3 forms
- ❖ If noncompetitive negotiation method was used, submit the forms listed on C-1 & justification for using this method
- ❖ Include complete, unexecuted agreement with the C-1
- ❖ Incomplete C-1 packages or attachments cause delays in approval



Contract Approval

- ❖ If contract involves major change in project scope (e.g., due to budget shortfalls), must submit project amendment prior to C-1
- ❖ GA will notify in writing if contract & procurement are in compliance
- ❖ Grantee must submit contractor's notice to proceed to GA
- ❖ If project under budget, cost savings must be pro-rated among funding sources & budget revision/cost savings plan must be submitted to GA within 30 days of contract award



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Section 5: Managing Change Orders



Project Oversight

- ❖ Quality of work and timeliness
- ❖ Management of project, site, subs and workers
- ❖ Who is on-site; who is under contract?
- ❖ Payments to general; payments to subs
- ❖ How to determine if engineer is doing her/his job?



Change Orders

- ❖ Change orders should be kept to a minimum
 - Limit change orders with good specs and review
 - Require and use unit pricing from original bid
 - Change orders should not be done at time of contract award unless all bidders given opportunity to submit info on changes
 - Change orders should not be used to correct math errors
- ❖ All in writing & recommended in writing by engineer!

Change Order Limits

- ❖ Submit to GA for approval all change orders that, in aggregate, are:
 - 10% or \$10,000, whichever is less (increase or decrease)





Change Orders

- ❖ Change Order Transmittal Form C-2
 - Revised & simplified
 - Include prices AND quantities AND funding sources
 - Justification & cost reasonableness
 - Cost recommendation from A/E
 - Revised Section 102 Disclosure form
- ❖ Must be approved by GA in advance of work for any changes for engineer or contractor

Peer to Peer – Procurement & Contracting Case Study Change to Scope

Due to current materials and labor costs, a water extension project is bid and comes in \$146,000 under budget.

The Grantee has requested to expand original scope of work through a change order and use excess CDBG funds.

How do you administer the project?



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Case Study Change to Scope

- ❖ Contact GA staff to discuss.
- ❖ Is Project Amendment required?
 - Is the work in the same project area?
 - Will the work result in the same number of beneficiaries and LMI?
 - Will the work be charged to the same activity line item? Will a budget revision be required to move funds to a different line item?
 - Was the area included in the original Environmental Review?

Case Study Change to Scope

- ❖ How will additional work effect timeliness of the project? Will additional time be necessary for design and permitting.
- ❖ Are CDBG funds (in whole or part) paying for engineering services? Will cost of design exceed the allowable CDBG eligible amounts?
- ❖ Determine if the work should be competitively bid or handled as a change order.



Case Study Change to Scope

Competitively Bid

- ❖ **Submit justification**
 - Work will result in substantial change to originally approved application & contract
 - Unit prices will increase or are not applicable to new work
- ❖ **Submit Project Amendment to GA**
- ❖ **Solicit New Bids and Award contract**
- ❖ **Submit contract and all corresponding documentation to GA for review/approval.**

Change Order

- ❖ **Submit justification**
 - Revised maps show work in same project area
 - Show updated ERR not required
 - Design & permitting will not effect timeliness of project closeout
 - Work involves continuation of contractor unit prices (no new work involved)
- ❖ **Submit change order and supporting documentation for GA review/approval.**

*See Chapter 8 of the Implementation Manual for further detail of CDBG procurement guidelines for competitive bidding & change orders



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Procurement Workshop

Ensuring Compliance



Use the Tools Provided

- ❖ GA has simplified the C-1 & C-2 forms
 - Make sure everything properly completed & required documents included
 - Will only cause delays if problems found
- ❖ GA has also provided you with 3 checklists to help you ensure procurement done properly & documents in place
 - Construction Contract Review Checklist
 - Professional Services Review Checklist
 - Change Order Checklist

Reporting & Record Keeping

- ❖ Contract related reporting:
 - Contract and Subcontract Activity Report (EO-1) - quarterly
 - Section 3 Report
 - Labor Standards Report - quarterly
- ❖ Maintain files for 5 years after close-out
- ❖ GA will monitor for compliance

End of Workshop

**Thanks for Coming!
Drive Safely.**



South Carolina
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